



## **Subscription Service Agreement**

Small Web Shop, Small Web Site, LanceFrench.com, Lance French

### **Terms of Business – March 2009**

As used in this Agreement the terms "Small Web Shop" encompasses Small Web Shop, Small Web Site, LanceFrench.com, Lance French, True Web Design and all its employees.

By completing and submitting the form and/or accessing the Small Web Shop Service ("Small Web Shop ", or the "Service") you represent that you are over the age of 18 to register for the Service (if you are using the Service as an individual). If you are signing up your company to use the Service, you represent that you have complete authority to enter into this agreement on behalf of your company. If you are entering into this agreement on behalf of your company, the term "You" in this agreement means your company and all of its employees.

Either as an individual or on behalf of your company, you are agreeing to all the terms of this subscription service agreement (the "service agreement" or "this agreement").

**IF YOU DO NOT AGREE TO THE TERMS OF THIS SERVICE AGREEMENT, PLEASE DO NOT USE THE SERVICE.**



## Terms and Conditions

### 1. The Service

The Service consists of a browser interface, data encryption, data transmission, data access (as available). As used in this Agreement the terms "You" and "Yours" encompasses each user accessing the Service by any means by You including, if you are a corporation, all employees of Your corporation. You are responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the Service, and for paying all third-party access charges (e.g., ISP, telecommunications) incurred while using the Service. Small Web Shop makes no guarantees as to the continuous availability of the Service or of any specific feature(s) of the Service. Small Web Shop will inform you of any significant changes to the Service or the terms and conditions of this Agreement that it may make from time to time.

### 2. Use of Small Web Shop

Small Web Shop grants to You subject to the terms and conditions of this Service Agreement, an individual, personal, non-sub licensable, non-exclusive and nontransferable license to use Small Web Shop, in object code form only, and only in accordance with the applicable end user documentation, if any, and solely in conjunction with this Service Agreement. Neither You (and if You are a company, none of Your employees) will, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Small Web Shop product; modify, translate, or create derivative works based on the Small Web Shop product; or rent, lease, distribute, sell, resell, assign, or otherwise transfer rights to the Small Web Shop product; use the Small Web Shop product for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels on the Small Web Shop products. Because the Small Web Shop is proprietary, You agree not to publish or disclose to third parties any evaluation of Small Web Shops Software without Small Web Shops prior written consent. You acknowledge that Small Web Shop retains exclusive ownership throughout the world of all Small Web Shop products, any portions or copies thereof, and all rights therein. Upon termination of this Service Agreement for any reason, this License will terminate, and You, and any user accessing the Service by means of a company account, if applicable, will cease to use or have access to the Small Web Shop product.

### 3. Restrictions and Policies

**A. General Use.** You will not use the Service in any way for spamming, chain letters, junk mail or distribution lists to contact any person who has not given specific permission to be included in such. You agree not to transmit or permit Your employees to transmit through the Service any unlawful, harassing, libellous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind. You will only use the Service for lawful purposes, in compliance with all applicable laws including, without limitations, copyright, trademark, obscenity and defamation laws. Unlawful activities may include (without limit) storing, distributing or transmitting any unlawful material, attempting to compromise the security of any networked account or site, or making direct threats of physical harm. You hereby agree to defend, indemnify and hold Small Web Shop blameless against any claim or action that arises



from Your use of the Service in an unlawful manner or in any manner inconsistent with the restrictions and policies stated herein.

**B. Privacy Policy and Confidentiality.** It is Small Web Shops policy to respect the privacy of its users. Small Web Shop provides information such as your name, address, and credit card number to organizations (such as credit verification and billing services) to ensure that we receive proper payment for our services. Small Web Shop will not share, rent, sell, or trade personal information (including email addresses) that identifies our customers or users to third parties. Small Web Shop will not share, rent, sell, or trade data contained in Your account. However, Small Web Shop may use this information to contact You to ensure that You are satisfied with Small Web Shop products or services, learn about any ideas you may have to improve our offerings, call your attention to additional offerings or services provided by Small Web Shop, and communicate other information that Small Web Shop believes will be useful. In addition, Small Web Shop may share e-mail address and other information required to ensure that Small Web Shop channel partners and contractors can provide services and support subscribed to by you. Small Web Shop may occasionally ask You to provide demographic or personal preference data. If You elect to provide such data, Small Web Shop may use them to analyze the characteristics of Small Web Shop customers and visitors to the Small Web Shop Web site. Small Web Shop may also use such data to customize the specific information provided to You, or tailor it to better meet Your needs. Small Web Shop may share information aggregated from such data with third parties without notifying you. User and Account Data given to us are considered confidential. Small Web Shops privacy policy is subject only to Small Web Shops obligation to comply with applicable laws and lawful government requests, to operate its business properly, and to protect its users or itself. Small Web Shop reserves the right to contact users of the Service via e-mail or other means to inform them of their account status or changes or alterations to the service, or to inform them about additional offerings or services being provided or contemplated. Small Web Shop reserves the right at any time to change its privacy policy at any point.

**C. Data Backup and Security.** Small Web Shop shall use all reasonable efforts to protect Your data behind a secure firewall system, to conduct daily data backups, and to store weekly full-system backup in a separate, fire-safe facility.

#### **4. Support**

Small Web Shop, or its designee(s), shall provide e-mail support between 9:00am and 6:00pm Monday-Friday, except on public holidays, but has no obligation to provide You with hard-copy documentation, upgrades, enhancements, modifications, or other support unless specifically contracted for. Support hours provided by Small Web Shop resellers are pursuant to their normal business hours, which may differ from those of Small Web Shops or Small Web Shop s designees).

#### **5. Provision of Contact and Billing - Information and Payment of Fees**

If the terms of Your Small Web Shop Online account require You to pay for the Service, You agree to provide Small Web Shop with accurate billing information and with truthful, accurate, and complete contact information, including Your legal name, company name, street address, e-mail address, and telephone number, and to update this information within 30 days of any change to it. If the contact information You have provided is false or fraudulent, Small Web Shop reserves the right to terminate Your access to the Service immediately without any



obligation to return Your data. You agree to pay Small Web Shop the then applicable fees (the "Fees") by a payment method to be determined by Small Web Shop at its sole discretion (credit card, debit card, bank transfer). Small Web Shop reserves the right to change the form of payment upon reasonable prior notice to You. Small Web Shop reserves the right to change the fees, applicable charges and usage policies and to institute new charges at any time, upon sixty (60) days prior notice to You (which will be sent by e-mail). The Fees will automatically be invoiced monthly in advance to the Small Web Shop Billing Cycle. Payment by fraudulent means will result in immediate and permanent termination of the account, and possible criminal penalties. All accounts must be settled within 2 weeks of the invoice. Your access to the Service will be suspended if Your account is delinquent. Small Web Shop may impose a charge to restore archived data from delinquent accounts. Unpaid charges are subject to interest of 3% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. Any account which is suspended for more than 30 days will be terminated without any obligation on the part of Small Web Shop to maintain Your data. If You believe Small Web Shop has billed You incorrectly, You must contact Small Web Shop immediately stating the error or problem that has occurred, in order to receive an adjustment or credit if applicable.

## **6. Prices**

Prices are guaranteed for the period stated at the time of Order purchased by You. All prices and purchase options are clearly displayed. If any Services to be used within any time period specified are not used within that period of time they may not be carried over into any subsequent period. You are responsible for payments for any unused Services Ordered. All prices may be subject to VAT at the applicable rate.

## **7. Publicity and Marketing**

By becoming a subscriber of the Service, Small Web Shop may, at its discretion, issue a press release announcing the use of the Service by You. If use of the Service performs to Your satisfaction, You agree to provide Small Web Shop with a quote from the primary decision maker and a user of the Service, as well as work with Small Web Shop to approve, and not unreasonably withhold approval for, a press release. As of the effective date of paid subscription activation, You hereby grant Small Web Shop the right to reference You, along with Your logo, on the customers section of Small Web Shops web site until such time as: (a) this agreement is terminated or (b) You discontinue use of the Service.

## **8. Passwords and Security**

You will choose or be given all applicable passwords to use in connection with the Service. You are entirely responsible for maintaining the confidentiality of Your passwords and account (including, if applicable, the passwords and accounts of each user accessing the Service by means of an account established by You). Furthermore, You are entirely responsible for any and all activities that occur under Your account (including, if applicable, the accounts of each user accessing the Service by means of an account established by You), and You shall ensure that You exit from Your account at the end of each session. You shall notify Small Web Shop immediately of any unauthorized use of Your account (including, if applicable, the passwords and accounts of each user accessing the Service by means of an account established by You)



or any other breach of security. Small Web Shop cannot and will not be liable for any loss or damage arising from Your failure to comply with these requirements.

### **9. Browser and operating system policy**

Small Web Shop requires Internet Explorer 6.2 or Firefox 2.0.0.12 as a minimum running on the Windows operating systems. Small Web Shop requires users to enable session cookies (enabling permanent cookies is recommended), and JavaScript, in your browser.

### **10. Data Protection**

If required it is Your responsibility to apply and hold a valid Data Protection number in line with Your responsibilities as a employment agency and employment business inline with the Data Protection Act 1998. Small Web Shop is not responsible and cannot be held responsible for Your failing to comply with said Act.

### **11. Termination**

Upon expiration or termination at the conclusion of the month, if You choose not to continue a Small Web Shop subscription, You will immediately cease all use of the Service, including the Small Web Shop product and any documentation. This Service Agreement is a monthly agreement, renewable unless either party requests termination of the agreement by giving thirty (30) days notice. If You have purchased the Services, You will pay in full for the Service up to and including the last day of the contract term. To cancel the Service, reduce or add additional services provided by Small Web Shop, You must contact Small Web Shop by email or telephone to confirm. Small Web Shop will email you detailing your current contract details and costs 72hrs prior to the end of that contract term. Small Web Shop may, but is not obligated to, delete archived data, but will not do so until ninety (90) days after the termination of this Agreement. Small Web Shop will communicate this intention to remove and delete archived data by email prior to termination. Upon expiration or termination, You will immediately cease all use of the Service, including the Small Web Shop product and any documentation. You are entitled to receive a back-up of Your data, subject to Your then current monthly fee s being paid if requested for a set charge of £200.00 Delinquent accounts must be brought to good standing in order to receive data. Termination is not an exclusive remedy and all other remedies will be available whether or not the license granted herein is terminated. Notwithstanding the foregoing, if You are dissatisfied with the Service, the materials available on or through the Service, or with any of Small Web Shops terms and conditions, Your sole and exclusive remedy is to discontinue using the Service.

### **12. Warranty and Disclaimer**

The service is provided "as is" without warranty of any kind, and small web shop disclaims all warranties, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose and noninfringement. Some countries do not allow limitations on implied warranties, so the above limitation may not apply to You. Small web shop does not represent or warrant that the Service will be uninterrupted or error-free, that defects will be corrected, or that this site or the server that makes it available, are free of viruses or other harmful components. Any material downloaded or otherwise obtained through the use of the service is done at your risk and you will be solely responsible for any damage to your computer system or network, or loss of data that results from use of the service.



### **13. Limitation of Liability**

Small web shops total liability with respect to the subject matter of this service agreement (including, but not limited to, liability arising out of contract, tort, strict liability, breach of warranty or otherwise), will be limited to the fees paid by you to small web shop for the service under this service agreement in the 12 months prior to the act of injury that gave rise to the liability. Neither small web shop nor its licensors shall be liable in any event for loss or inaccuracy of data, loss of profits or revenue, or indirect, special, incidental or consequential damages (including, without limitation, the cost of any substitute procurement), whether or not foreseeable and even if small web shop has been advised of the possibility of such damages.

### **14. LIABILITY**

To the extent permitted by law, Small Web Shop shall not be liable to You save as expressly provided for in this Agreement and shall have no other obligations, duties or liabilities whatsoever in contract, tort or otherwise to the Customer.

So far as is permitted by law Small Web Shop makes no warranty to You as to the quality of the Services or Equipment or the fitness for purpose of the Equipment and in any event, Small Web Shop shall only be liable for material breaches of its obligations under this Agreement and to the extent of 100 GBP per breach.

Neither party shall have any liability to the other in respect of any breach of this Agreement for loss of revenue, business, anticipated savings or profits or any loss of use or value of any equipment or for any indirect or consequential loss howsoever arising

Nothing in this Agreement shall:- (a) exclude or restrict Small Web Shop for liability in respect of the death or personal injury or fraud resulting from the negligence of the Company, its employees or agents; (b) exclude the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979 and where You deals as a consumer, the conditions implied by sections 13 to 15 inclusive of the said Act and by sections 3 and 4 of the Supply of Goods and Services Act 1982; or (c) where You deals as a consumer, affect the Customer's statutory rights.

Small Web Shop disclaims all liabilities in connection with the following :

- loss of material uploaded
- incompatibility of the site with any of the Customer's equipment, software or telecommunications links
- technical problems including errors or interruptions of the site
- unsuitability, unreliability or inaccuracy of the site.

Small Web Shop will indemnify You for claims made against You by third parties for breach of their Intellectual Property Rights if such breach has been caused by the act, omission or otherwise of the Company, its employees or agents.



Nothing in this Agreement shall prevent Small Web Shop from pursuing payment of a debt against the Customer.

Where You access this site from locations outside the United Kingdom, You does so on the Customer's own initiative and is responsible for compliance with local laws.

## **15. Miscellaneous**

This Agreement is between Small Web Shop and You, and is not for the benefit of any third party, whether directly or indirectly (including, if applicable, any user accessing the Service by means of an account established by You). The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sub licensable by You except with Small Web Shops prior written consent. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH ENGLISH LAW. YOU AND SMALL WEB SHOP AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS LOCATED IN ENGLAND. You and Small Web Shop agree that any cause of action arising out of or related to this Service must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous or contemporaneous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all modifications must be in writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and You do not have any authority of any kind to bind Small Web Shop in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when access has been made the administration area of the website. It is the express will of the parties that this Agreement and all related documents have been drawn up in English.